

Exhibit F

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

COPY [Page 1]

PHILIP FEI, on behalf of	:	07 Civ. 8785
himself and classes of	:	
those similarly situated,	:	
Plaintiff,	:	
-against-	:	
WEST LB AG,	:	
Defendant	:	Rule 30(b) (6)

Friday, April 18, 2008

Continued pretrial examination of LINDA B. SHIRLEY, held in the offices of Outten & Golden, 3 Park Avenue, 29th Floor, New York, New York, commencing at 10:14 a.m., on the above date, before Mickey Dinter, Registered Professional Reporter, Certified Shorthand Reporter and Notary Public for the State of New York.

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1 forty hours and they work on a Saturday,
2 they are eligible for time-and-a-half.
3 And if they work over forty and they work
4 on a Sunday, they are eligible for double
5 time and the same for holidays.

6 I wanted to verify that
7 with her. She said yes, so I asked her
8 the beginning questions and she said -- I
9 asked her first. She went on to recite,
10 you know, that, yes, if it was over forty,
11 just what I said.

12 For those Saturdays,
13 Sundays and holidays, I had asked -- I
14 guess when I was here last time, the other
15 lawyer had asked me about the timesheets
16 and, so, I asked her, "Did you use the
17 same timesheets?" And she had explained
18 to me that there was a different, when she
19 described it, I could tell it was a
20 different timesheet. She said it was a
21 timesheet that had sort of a carbonated
22 form and the people who were nonexempt and
23 overtime eligible would fill in their
24 hours and they would bring the timesheets
25 over and then she said they would break

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1 off, you know, the pink copy or the yellow
2 copy, whatever, and send it back to the
3 employee to verify that they had entered
4 it in, which was different from what we
5 have now, because it's the Excel spread-
6 sheet. And, so, I had asked her that and
7 she explained that and then we had asked
8 her about the policies and if she
9 remembered any of the policies, if she
10 remembered, you know, policies regarding
11 overtime. And we asked her...

12 Q. You said that you asked her about
13 the policies regarding overtime. Were you
14 any more specific than that?

15 A. I asked her if she, you know,
16 remembered -- I was trying to -- we were
17 trying to ask her about the nonexempt
18 people so we could understand how, you
19 know, how they were, how they were paid
20 and if there was a different policy at
21 that point.

22 Q. The policy that you were just
23 speaking about regarding the timesheets
24 and to capture the amount of hours to
25 record the number of hours that the

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1 nonexempt person works, you asked her
2 about that and you asked her about the
3 thirty-five hour work week for the
4 nonexempt person who exceeds their hours
5 and then is paid time-and-a-half.

6 What other policies besides
7 those two did you discuss with
8 Patricia Reed?

9 MR. BASSEN: Objection. I
10 don't know that they are policies.

11 BY MR. RAISNER:

12 Q. What other topics -- did you talk
13 about how/why people were classified as
14 exempt or nonexempt?

15 A. We didn't ask her that.

16 Q. What was your question to her about
17 that?

18 A. I asked her how did they classify
19 the positions? She told me that or told
20 us that Betsy Austin had worked on that.

21 Q. Betsy Austin had worked on that?

22 A. Yes.

23 Q. Did she say anything more
24 specifically about what Betsy Austin had
25 done?

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1 they might have had.

2 Q. She mentioned that in the phone
3 call? Or do you think that is your
4 understanding of the process today how
5 that process worked?

6 A. I think she mentioned that because
7 when we were, when we were talking, she
8 was saying, you know, some of the
9 positions with the people, you know, the
10 positions were different, you know,
11 because some people, you know, you might
12 have...

13 Q. They were different from each other
14 or different from the way they are today?

15 A. I guess she was saying different,
16 because we were just asking her in general
17 because there was a question, you know,
18 later on about how we classified a
19 position.

20 Q. How you classified or reclassified?

21 A. Well, I guess, classified.
22 Classified or reclassified the positions.

23 Q. Okay.

24 A. And she was just sort of
25 describing, you know, what would have

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1 happened.

2 Q. At what point would she speak to a
3 manager about a position and consult a job
4 description?

5 A. If someone wanted to hire someone,
6 you know; if they wanted to transfer
7 someone; if someone said I have an
8 opening, this my department, that's what
9 would trigger the discussion.

10 Q. That discussion would be triggered
11 every time there was a hire or transfer or
12 an opening in the department?

13 A. More if it was -- what would happen
14 is, someone would say "I have an opening"
15 and then they would look and see if this
16 is a replacement or if this is a new
17 position.

18 Q. If it were a replacement, would
19 Betsy Austin or someone else go through
20 the process of consulting a job
21 description and speaking with the manager
22 about the duties of the job just to
23 replace one person with another?

24 A. She said most of the positions were
25 replacements. They wouldn't have gone

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1 through a whole review unless the manager
2 said that they were going to be changing
3 the position in some sort of way. Then,
4 they would try and figure out, you know,
5 what exactly are you changing? But if
6 they were not changing the job, and that's
7 what we were asking her, if they weren't
8 changing the job, then they didn't, you
9 know, review it to determine if it should
10 be classified any differently, you know,
11 in a different manner.

12 Q. So, it's changing of position.
13 What about a new position?

14 A. Well, when we asked her about the
15 new position, she said most of them were
16 replacements and that, that's when she
17 said what I was saying earlier, which is
18 they would have given a job description,
19 the responsibilities --

20 Q. Not if it's a replacement?

21 A. Not if it's a replacement; if it's
22 a new position.

23 Q. She said most times it was a
24 replacement?

25 A. Yes.

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1 Q. Did she mention any instances where
2 there was a new position?

3 A. She didn't mention any specific
4 position.

5 Q. Did she mention any specific
6 situations regarding changed positions,
7 positions that had changed?

8 A. She didn't mention any specific
9 positions.

10 Q. Did she say -- did she indicate
11 that there had been changed positions
12 during that period?

13 A. She didn't say. I didn't ask her
14 do you remember the, you know, if anyone's
15 job changed.

16 Q. I'm just trying to sort of
17 understand the flow of the conversation a
18 little better.

19 I understand that in asking
20 about the classification, she said that
21 most positions were replacement --

22 A. Yes.

23 Q. -- in which case, there wasn't a
24 full review of the job duties like you
25 just described.

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1 A. Yes.

2 Q. So, but you mentioned if someone,
3 if someone was hired into a position where
4 they are replacing somebody or transfers
5 into a position where someone has an
6 opening in a department or someone to
7 replace a prior person, no one would have
8 to go through the trouble of consulting a
9 job description, talking to the managers
10 about the duties and having to reassess or
11 reevaluate the classification of the job,
12 is that correct?

13 A. That's correct.

14 Q. So the --

15 A. I mean, they would have some
16 conversation about that.

17 Q. But the position is exempt or
18 nonexempt?

19 A. It's a --

20 Q. You are replacing her, basically,
21 in the position that the incumbent was in
22 and the person who left would be taking
23 that person's job duties, more or less,
24 and classification with it?

25 A. Yes.

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1 Q. So, you say there were instances
2 where she would go through this
3 reassessment?

4 A. Yes. She said if it was, well, not
5 reassessment, I guess a new assessment.

6 Q. And just to be sure, what triggered
7 that assessment?

8 A. If it was new.

9 Q. If it was a new position?

10 A. If it was a new position.

11 Q. By "new position," talking about
12 something that is a brand new function or
13 talking about adding a few more tasks to
14 or duties to a current position? Or did
15 you not have that conversation?

16 A. I didn't ask her, you know, in that
17 detailed manner. I asked her how would
18 new positions be handled and she had said
19 to me, mostly, they are replacements, but
20 when there were new positions, Betsy would
21 handle it. This is what she would do, and
22 I don't know if I shouldn't have assumed,
23 but I assumed, you know, I assumed new,
24 that it's either brand new or significantly
25 changed.

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1 you asked her is about the policies and
2 practices that were in place in 2001,
3 correct?

4 A. Yes.

5 Q. You asked her what the origin of
6 those practices and policies were,
7 correct? Where did they come from? Who
8 created them? Where were they created?
9 Isn't that the questions you were asking?

10 A. We were asking Pat -- we were
11 asking if she remembered about these
12 policies and, well, we were asking her,
13 you know, were there policies? Where were
14 they? That kind of thing.

15 Q. Right.

16 A. And then she had said she's not --
17 the policies, they were put into place a
18 while ago. I didn't ask her a lot of
19 details on that, so...

20 Q. So, you were asking when had they
21 been put in place? She thought there was
22 a project in '99 and 2000. Presumably,
23 the project in '99 and 2000 set up a
24 system, a classification, is that correct?

25 MR. BASSEN: Objection.

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1 THE WITNESS: She didn't
2 say that classification system was set
3 up.

4 BY MR. RAISNER:

5 Q. The policies that you were asking
6 her about included the classification
7 policies, correct?

8 A. We were asking about if she knew.
9 She said, "I didn't work on that." She
10 said Betsy worked on that, you know. This
11 is what I remember.

12 Q. It's clear that Patricia Reed
13 herself did not work on any of the tasks
14 related to the classification of employees.

15 You mentioned her functions
16 and -- but she did not -- it was
17 Betsy Austin who would have evaluated the
18 classification of the employees, not Pat
19 Patricia Reed, correct?

20 A. Except when we were talking about,
21 you know, sort of replacement positions.

22 As a generalist, when
23 positions are being replaced, she would
24 have, you know, that's what she said.

25 They would ask the managers if this is

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1 changed, is this the same? et cetera.

2 Q. In the event of a replacement, any
3 generalist would be charged with -- what
4 would the generalist be charged with in
5 the case of a replacement?

6 A. Well, I guess -- again, now I'm
7 guessing, you know.

8 Q. Why are you guessing? You don't
9 have personal knowledge? You are not a
10 generalist yourself?

11 A. I'm a generalist and I know how
12 it's done now.

13 Q. In 2004 or 2003 actually --

14 A. I didn't have generalist
15 responsibilities at West LB at that time.
16 I inherited the generalist responsibilities.
17 I had been a generalist before. But,
18 basically, what she said and basically
19 what I remember, Pat had some generalist
20 responsibilities during that time and this
21 is what -- she did say what I said before,
22 which is they would look and see is this a
23 replacement. At that point, the
24 generalist would have to try and make a
25 call as to does this look like it's

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1 significantly different or is it,
2 essentially, the same? And, you know, if
3 the manager said it was the same and they
4 felt it was essentially the same, then
5 they would replace it.

6 Q. So, the initial call is made by the
7 generalist to see if there is, as you
8 said, a significant change in the job
9 duties and then if there isn't, then there
10 isn't triggered a reevaluation of the
11 person's classification, is that correct?

12 A. That's my understanding. But I
13 didn't ask her sort of, you know, like
14 that follow-up question.

15 Q. Did Patricia Reed indicate that
16 she, herself, had the responsibility of
17 handling that type of replacement
18 responsibility in which she would make the
19 call as to whether there was a significant
20 change in duties or not?

21 A. What I knew of her responsibilities
22 is that as a generalist, when I was there,
23 she helped with recruiting, helped with
24 filling positions, you know, same thing
25 and those that she would work with,

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1 managers, to get that done.

2 Q. So that's something from your
3 knowledge of working together with her at
4 the time, that was not something you had
5 discussed on Monday morning's telephone
6 call?

7 A. No, I didn't ask her those things,
8 you know. I was trying to ask her, you
9 know, as I said, is the policy basically
10 the same?

11 Q. What did she say?

12 A. It led me to believe --

13 Q. Did she say it's basically the
14 same?

15 A. Yes. What she led me to believe is
16 basically the same as what we do now.

17 Q. Did she mention any differences
18 between how things were done in 2001
19 through 2004 to how they are done now?

20 A. With respect to?

21 Q. Anything.

22 A. Well, she was talking about the
23 timesheets.

24 Q. Besides the timesheets, carbon
25 copies then, Excel spreadsheets now --

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1 A. Yes.

2 Q. -- anything else?

3 A. Well, we had talked about the
4 policy manual. We were trying to find
5 that.

6 Q. There is a policy manual now which
7 spells out certain things about payroll
8 and compensation and overtime.

9 A. Yes.

10 Q. But, then...

11 A. That's what we were looking for,
12 but we didn't see it.

13 Q. You thought there was something, an
14 employee manual, or handbook?

15 A. She thought she had been working on
16 something, but she couldn't, you know, she
17 didn't remember exactly. She couldn't
18 tell us where it was. She said she didn't
19 keep any, you know.

20 Q. It may have been in draft form and
21 may not have actually been disseminated?

22 A. Yes, because we were asking her and
23 she said, you know, she remembers that
24 something is being worked on. It might
25 have been a draft.

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1 Q. Beyond speaking with Pat -- is
2 there anything else beyond speaking with
3 Patricia Reed on Monday that informs you
4 as to what the company's policies and
5 practices were with respect to
6 compensation, classification,
7 reclassification in the period late 2003
8 to late 2004?

9 A. As I said, I was responsible for
10 the compensation part. I think the only
11 thing I was not directly involved in is
12 this classification/reclassification and
13 those didn't occur during that time period
14 from December 2003 to 2004. There were
15 no, you know, wholesale projects.

16 Q. In the period of 2003/2004, how
17 many types of designations would be given
18 to a particular job? Was there something
19 called a job title in that period?

20 A. We have corporate titles. The
21 corporate titles are, basically, sort of
22 identifying various levels and those are
23 used globally. There are a couple of
24 distinctions.

25 Q. When you say globally, do you mean

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1 around the world?

2 A. Yes.

3 Q. In West LB locations across the
4 United States and overseas?

5 A. Yes, except there are a couple of
6 distinctions which I started to say. In
7 Germany, they generally don't start the
8 titles until later because they have
9 different German titles they use.

10 Q. What do you mean?

11 A. They start using associate
12 director, director, executive director.
13 They have their German titles.

14 Q. But later with respect to what --
15 from the time the person is hired or later
16 in terms of when they instituted these
17 titles, I'm not sure what you mean by
18 later.

19 A. The corporate -- I don't mean later
20 in time. I mean hiring level.

21 Q. Later in someone's career as they
22 move up the ladder, they will get a
23 corporate title like managing director,
24 executive director?

25 A. Yes. Generally, at all the other

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1 locations, the titles start with officer,
2 executive, manager and then associate
3 director, et cetera.

4 Q. Those are corporate titles used in
5 the United States?

6 A. Yes.

7 Q. By the way, are there any
8 differences in any of the practices or
9 policies that you are familiar with in the
10 New York location in other United States
11 locations?

12 A. What do you mean?

13 Q. Is there any differences between
14 how HR runs in New York as opposed to how
15 it runs in Chicago or California or Texas,
16 wherever West LB has other sites?

17 A. Generally, they are the same. We
18 used to have a location in Houston, Texas,
19 a second location there, and they had an
20 HR person who worked there, but she
21 reported into someone in New York and, so,
22 generally, the policies were the same.
23 They worked, as far as I know, the same,
24 you know, work week, the holiday schedule,
25 those types of things.

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1 Q. With respect to compensation,
2 classification, recording of hours and
3 payroll practices in general, the policies
4 and practices are uniform throughout the
5 United States?

6 A. Yes, because you are talking about
7 -- during this time period you are talking
8 about -- I'm a little -- what I don't know
9 is, there was a point where everything was
10 out of New York as far as the payroll.
11 There was a point for a year or two, but I
12 think it's, it actually is sort of outside.
13 Somewhere in 2004/2005, whatever, they
14 handled the payroll in Houston for awhile.
15 Then, they closed that and it came back to
16 New York. But, generally, it's my
17 understanding they followed the same
18 policies and practices.

19 Q. For classification?

20 A. Yes. They had the same levels that
21 we had.

22 Q. So, we have the corporate titles.
23 And the corporate titles starts with
24 officer?

25 A. Yes.

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1 Q. And goes up to?

2 A. Managing director.

3 Q. Managing director.

4 What other designation is
5 given to a job besides a corporate title?

6 A. There are functional titles. They
7 were sort of, I would say, maybe, not
8 necessarily uniformly used all along.

9 Q. Before you describe what the
10 functional titles are and how they are
11 used, is there another type of title
12 that's given, or designation?

13 A. No. I think -- sometimes people
14 will say -- the thing is that if you say
15 to someone what is the title, all right,
16 sometimes they will describe something
17 generically, but if you were to say sort
18 of what you're official title is,
19 corporate title, then you would get a
20 different answer, so you wouldn't
21 necessarily, you know, I'm not sure you
22 would get the same answer all the time,
23 but I don't think that's just a West LB
24 thing.

25 Q. In the company's tracking or their